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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	No. CR 01-0186 MMC
)	
12 Plaintiff,)	<u>AMENDED STIPULATION</u>
13 vs.)	REGARDING SENTENCE REDUCTION
)	UNDER U.S.S.G. AMENDMENT 706 (AS
14 HENRY OLIVER,)	AMENDED BY 711); ORDER THEREON
)	
15 Defendant.)	
_____)	

16
17 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties acting
18 through their respective counsel, that:

- 19
- 20 1. The Court has indicated that it is making its own motion for a modification of the
21 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).
 - 22 2. Defendant's original guideline calculation was as follows:
23 Total Offense Level: 23
24 Criminal History Category: VI
25 Guideline Range: 92-115
26 Mandatory Minimum: 60 months

- 1 3. Defendant was sentenced to 92 months imprisonment on September 5, 2001.
- 2 4. Defendant completed the 500 hour RDAP program, and his current projected release date
3 is September 7, 2008. His original release date, without the RDAP program, was
4 February 17, 2009. It is the parties' understanding that the BOP will take defendant's
5 reduction from the original release date, not from the RDAP release date.
- 6 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
7 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
8 Guidelines Manual.
- 9 6. Defendant's revised guideline calculation is as follows:
10 Total Offense Level: 21
11 Criminal History Category: VI
12 Guideline Range: 77-96
- 13 7. The parties have no reason to dispute the Reduction of Sentence Report submitted to the
14 Court by the probation office.
- 15 8. The parties earlier submitted a stipulation to reduce Mr. Oliver's sentence to 84 months,
16 with the stated intent that Mr. Oliver would be released in mid-June, 2008. Upon receipt
17 of the stipulation and Order, the BOP calculated Mr. Oliver's release date at July 20,
18 2008. It is the parties' understanding, based upon conversations with the BOP and review
19 of documents issued by the BOP, that an amended Order for "Time Served Effective June
20 30, 2008" will achieve a result consistent with the parties' intent.
- 21 9. Accordingly, the parties stipulate that defendant's sentence should be reduced to "Time
22 Served, Effective June 30, 2008."
- 23 10. The parties further stipulate that all other aspects of the original judgment order including
24 the length of term of supervised release, all conditions of supervision, fines, restitution,
25 and special assessment remain as previously imposed.
- 26 11. Defendant stipulates that he waives and does not request a hearing in this matter pursuant

to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007).

12. Defendant waives his right to appeal the district court's sentence.

13. Accordingly, the parties agree and stipulate that an amended judgment may be entered by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines Manual*.

IT IS SO STIPULATED:

Date: June 24, 2008

/S/

Rebecca Sullivan Silbert
Counsel for Henry Oliver

Date: June 24, 2008

/S/

Candace Kelly
Assistant United States Attorney

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/S/) within this e-filed document.

AMENDED ORDER

Based on the above stipulation, the Court hereby ORDERS the following:

1. The Court is making its own motion for a modification of the defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2);
2. **The original Judgment in the above-captioned case is AMENDED to reduce the term of imprisonment to "Time Served, Effective June 30, 2008."** This is the second

Order amending the original Judgment (the first Order reduced the sentence from 92 to 84 months). All other aspects of the original judgment, including the length of term of supervised release, all conditions of supervision, fines, restitution, and special assessment remain as previously imposed.

3. Defendant's original guideline calculation was as follows:

Total Offense Level: 23

Criminal History Category: VI

Guideline Range: 92-115

Mandatory Minimum: 60 months

Sentence Imposed: 92 months

4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission Guidelines Manual;

5. Defendant's revised guideline calculation is as follows:

Total Offense Level: 21

Criminal History Category: VI

Guideline Range: 77-96

6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007).

7. Defendant has waived his right to appeal the sentence imposed by this Order.

Date: June 25, 2008



Honorable Maxine M. Chesney

Judge, United States District Court